IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4020 OF 2004

Chandrashekhar Dukha Pradhan ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.N.N.Gawankar with Mr.Arfan A.E.A. Sait

for Applicant.

Mr.K.V.Saste, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

OCTOBER 5, 2004.

P.C.

1. Heard Counsel for the parties. The prosecution case against the present Applicant revolves around the motive on account of union rivalry, coupled with the recovery of weapon named sattur and bloodstained handkerchief. However, on perusing the record, I find substance in the argument canvassed on behalf of the Applicant that there was no material before the concerned Investigating Officer to even remotely suggest the

involvement of the Applicant in the commission of the offence. The incident took place on 14th December 2002. However, on the same day, the Police Inspector has issued order specifically ordering to make enquiries amongst others against the Applicant. When this order was passed, it is fairly accepted by the learned A.P.P., that there was no material before the concerned Police Inspector about any suspicion or the involvement of the Applicant or for that matter, commission of offence because of the union rivalry. Whereas, the statements recorded indicate assault on the deceased by assailants, whose faces were covered and could not be identified. Indeed, Sattur as well as bloodstained handkerchief has been recovered after the arrest of the Applicant. The fact remains that the investigation proceeded against the Applicant, without there being any material to even remotely suggest the involvement of the Applicant, or that, the offence was committed on account of union rivalry. In other words, it is possible to accept the grievance of the Applicant that the Investigating Officer first decided the course of investigation by naming the

assailants on the assumption that the offence was committed because of union rivalry. The incident has occurred on 14th December 2002. The Applicant was arrested on 30th December 2002 and is in custody since then. In any case, as investigation is complete and there is no prospect of early disposal of the trial, the appropriate course, to my mind, taking overall view of the matter, is to enlarge the Applicant on bail on the following conditions:

(a) The Applicant is enlarged on bail in connection with C.R.No.I-251/02 registered with Murbad Police Station on executing personal bond in the sum of Rs.25,000/- (Rupees Twenty-five Thousand) with two local sureties in the like amount.

(b) The Applicant shall not leave the jurisdiction of Murbad Police Station, without prior intimating to the concerned Investigating Officer.

(c) The Applicant shall not influence the

prosecution witnesses or tamper with the prosecution evidence in any manner whatsoever. If such grievance is made, that can be a ground for cancellation of bail.

(d) The Applicant shall extend full co-operation for early disposal of the trial and if the Trial Court is of the opinion that the Applicant is responsible for the delay of the trial, that fact be recorded in the Roznama, which will be a ground for cancellation of bail.

(e) The Applicant shall regularly report to the concerned Police Station once in fortnight on Saturday between 11.00 a.m. to 2.00 p.m.

. Application disposed of on the above terms.

A.M.KHANWILKAR, J.